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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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| Proceeding | 92054551 |
| Party | Defendant Douglas Burda |
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| Submission | Reply in Support of Motion |
| Filer's Name | Douglas Burda |
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| Signature | /Douglas Burda/ |
| Date | 03/12/2012 |
| Attachments | REPLY to Opposition to Motion for Default Judgment.pdf (7 pages)(66973 bytes) |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ANDREY PINSKY

Petitioner,

v.

Cancellation No. 92054551

DOUGLAS BURDA

Respondent.

**REGISTRANT’S REPLY TO PETITIONER’S OPPOSITION TO
REGISTRANT’S MOTION FOR DEFAULT JUDGMENT**

Respondent, Douglas Burda (Registrant) hereby files its Reply to Petitioner’s Opposition to Registrant’s Motion for Default Judgment (Reply), supported by Registrant’s REPLY BRIEF IN SUPPORT OF MOTION, below, the papers on file with the Board in this matter, and any other matters properly before the Board.

REPLY BRIEF IN SUPPORT OF MOTION

I. ARGUMENT.

Almost as if on queue, Petitioner, through Petitioner’s Opposition to Registrant’s Motion to Find Petitioner in Default (Opposition), has specifically revealed what Registrant believes has been Petitioner’s *modus operandi* from the commencement of this proceeding, namely, to attempt to overwhelm the Board with smokescreens in the hope that the pertinent issues clearly weighing against Petitioner will be diluted or tossed aside in favor of attempting to decipher Petitioner’s baseless subterfuge. It is clear, however, that the bulk of the Opposition never directly addressed the issues for

which Registrant filed Registrant's Motion: that Petitioner has refused to follow the rules and Board's orders, and that Petitioner should be found in default on such bases.

In short, because Petitioner's unambiguous actions speak louder than Petitioner's convoluted words, Registrant respectfully requests that this Board grant Registrant's Motion.

A. Petitioner's Opposition is Based on Misrepresentations and Previously-Dismissed Assertions.

The sheer volume of misrepresentations set forth by Petitioner in the Opposition do not permit Registrant to address each of them due to the page limitation with respect to a reply brief. However, it is clear that Petitioner has bolstered Registrant's request for the relief Registrant seeks via Registrant's Motion for Default and this Reply.

For example, Petitioner reinforced that Petitioner is playing games with the methods of service of papers in this Proceeding, and seems to have concocted a complex scheme utilizing the limitations of Federal Express as a means of doing so. Indeed, this is not the first time Petitioner has elaborately delineated Petitioner's perceived shortcomings of Federal Express, but it is the first time Petitioner has done so in an attempt to deflect fault for Petitioner's non-compliance with the rules. Additionally, Petitioner's averments regarding proper service of papers and Registrant's receipt of same are questionable at best in the face of Petitioner's own papers already on file with the Board and the contradictions therein and therewith. For example, Petitioner's references to Petitioner's "informal letters" and "informal repl[ies]" sent by Petitioner do not excuse Petitioner's obligations to comply with the rules regarding

service of papers and methods of service, as much as Petitioner would prefer, especially given Petitioner's noncompliance with same.

Petitioner's Opposition merely echoes arguments previously dismissed by the Board. Not only has Petitioner merely re-lodged such arguments here, but Petitioner has done so with the improper purpose of drawing attention away from his unfounded assertions and misrepresentations. Registrant's Motion should be granted on such basis.

B. Petitioner's Misrepresentations and Unfounded Assertions Bear No Relation to this Proceeding or this Motion.

The Opposition sets forth a multitude of arguments that do not stand for the proposition for which they are raised, but rather Petitioner uses such arguments only for the purpose of illegitimately attempting to paint a negative picture of Registrant and this Board, specifically regarding the Interlocutory Attorney. As Registrant has refused to respond to Petitioner's practices as such, Petitioner has intensified its attempts to paint such pictures, repeatedly relying on false information and misrepresentations that have no bearing on Petitioner actually substantiating Petitioner's burdens. To the contrary, Petitioner has not even attempted to sustain such burdens and has instead focused squarely on defaming Registrant and bad-mouthing the Interlocutory Attorney and this Board. Notably, Petitioner's arguments to these effects have been settled by the Board, in some cases by the Chief Administrative Judge Rogers himself.

Further, Petitioner raised arguments that have no basis in fact, no relation to this Motion specifically, no relation to this proceeding at all. Such arguments include those relating to Registrant's family, Registrant's manner of operating Registrant's law firm,

the type of office in which Registrant practices law, the type of residence in which Registrant resides, the type of telephone that Registrant uses, and other inappropriate assertions. Importantly, such arguments were not lodged as the basis for Petitioner's bringing this cancellation proceeding in the first place, and should not be allowed now.

As such, it is difficult to view Petitioner's assertions in any light other than Petitioner's meaningless attempts to circumvent evaluation of this proceeding on its merits, as it is clear that such merits do not weigh in Petitioner's favor. Instead, Petitioner used the Opposition to reargue Petitioner's unfounded Motion to Compel. It goes without saying that such arguments have no bearing on the outcome of Registrant's Motion for Default. Indeed,

Petitioner does not even argue for denial of Registrant's Motion for Default, but instead seeks redress similar to that which Petitioner requested in the multitude of Petitioner's papers filed with the Board requesting: (a) removal of the Interlocutory Attorney, (b) waiver of the rules applicable to Petitioner's communication with the Board and Registrant, and (c) other general objections to the rules applicable to Petitioner. The Board has already denied each of these requests on a number of occasions. The Board should again deny such requests and grant Registrant's Motion.

C. Petitioner's Actions Fall Far Below the Minimum Level of Decorum Required by The Board.

The Board has established that practice before the Board requires at least a minimum level of respect and courtesy, including with respect to maintaining integrity and competence, and a prohibition on misconduct, particularly surrounding representations before the Board. Given Petitioner's behavior throughout this

proceeding and the string of objectively-founded misrepresentations, including those directed specifically at the personal character of Registrant (having nothing to do with the merits of this proceeding), it is beyond question that Petitioner does not maintain such minimum level of decorum, and the Board should grant Registrant's Motion on such basis.

D. Petitioner has Refused, and Continues to Refuse, to Comply with the Applicable Rules and the Board's Orders.

The Opposition itself does not appear to be in compliance with the Board's rules formatting and reasonable page limits. Despite the Opposition's shortcomings, however, Petitioner makes one thing abundantly clear thereby: that Petitioner is set on continuing to willfully transgress the Board's rules and orders and smear the reputation of this Board, the Interlocutory Attorney, and Registrant.

With the addition of the exhibits attached to Petitioner's Opposition, containing literally hundreds of pages of redundant subterfuge for the Board's review, Petitioner seems to be bent on causing an unnecessarily drawn-out proceeding. As such, any prejudice that Petitioner may experience from a default judgment being entered is self-inflicted, warranted, proper, and to the extent unclear from Petitioner's previous actions, reinforced by the Opposition.

II. CONCLUSION.

On the basis of Petitioner's established pattern of willful non-compliance with rules and orders in contravention of the Board's authority, and for all of the forgoing reasons, Registrant respectfully requests that the Board issue an order entering a default judgment against Petitioner.

March 12, 2012

Respectfully submitted,



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CERTIFICATE OF ELECTRONIC FILING

I certify that a true and complete copy of the foregoing REGISTRANT'S REPLY TO PETITIONER'S OPPOSITION TO REGISTRANT'S MOTION FOR DEFAULT JUDGMENT is being electronically transmitted to the Trademark Trial and Appeal Board, U.S. Patent and Trademark Office on March 12, 2012.

By: 
Douglas Burda

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing REGISTRANT'S REPLY TO PETITIONER'S OPPOSITION TO REGISTRANT'S MOTION FOR DEFAULT JUDGMENT has been served on Andrey Pinsky by mailing said copy on March 12, 2012 via First Class Mail International, postage prepaid to:

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CANADA

By: 
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